

United States House of Representatives  
Financial Institutions Subcommittee  
of the  
Financial Services Committee

Hearing on H.R. 1701  
The Consumer Rental-Purchase Agreement Act

**Testimony of Manuela Salazar Harper, El Paso, Texas**

July 12, 2001

**INTRODUCTION**

Thank you, Mr. Chairman, Members of the Financial Institutions Subcommittee, and especially to my Member of Congress, Representative Silvestre Reyes, for your kind introduction. It is my pleasure to have this opportunity to talk with you about my business and H.R. 1701.

My name is Manuela Salazar Harper, but my friends and customers call me Mamie. I am a businesswoman from El Paso, Texas. I am the owner and operator of four rental-purchase stores in El Paso. I have owned my own business for 10 years. My company provides jobs for 14 employees, and we have served many customers in El Paso and Canutillo, Texas, and Sunland Park, New Mexico, in the ten years that we have been open. I am extremely proud of the fact that I, a second generation Hispanic-American woman, have built my own company from the ground up, providing my employees with a middle-class lifestyle and decent workplace, while providing my customers with a unique package of goods and services.

I also presently serve as the Secretary of the rental-purchase industry's national trade association, the Association of Progressive Rental Organizations. "APRO" as it is commonly referred to is headquartered in Austin, Texas, and its members include both small and large companies that operate about 5,000 of the approximately 8,000 or so rental-purchase stores currently operating in the United States.

I am serving my second term as a member of the APRO Board of Directors and appear here today representing all of the member companies of APRO and myself.

Before I begin my remarks to the Committee I want you to know that I am neither an attorney nor a technical expert on the legal aspects of H.R. 1701. However, with me today is Edward Winn, General Counsel of our trade association and a widely regarded expert on rental-purchase legislation and legal issues. With your permission, Mr. Chairman, I would like to refer any specific legal or technical questions you may have to Mr. Winn.

**BACKGROUND ON RENTAL-PURCHASE**

As I mentioned, the rental-purchase industry operates approximately 8,000 stores throughout the country. We have 7 million items on rent presently in over 3 million households.

The industry as a whole produces \$5 billion in annual rental revenues. We pay in excess of \$1 billion in wages annually.

For many of you, the concept of rental-purchase may be somewhat unfamiliar. Basically, APRO members rent household durable goods such as electronics, furniture, appliances and computers to our customers. We use a week-to-week or month-to-month rental agreement that is renewable at the option of the customer, but does not obligate the customer to anything beyond that rental period. Because this is a lease and not a sale on credit, we do not run credit checks, a customer does not harm his or her credit rating by returning an item, and the customer does not become liable for any deficiency judgement. Other merchants use this form of transaction for other types of goods, for example, music and band instrument businesses. If my son tells me when he wants to learn how to play the trumpet, I'd rather not spend \$1,000.00 or more purchasing the instrument until I knew he was serious about it. Rental-purchase offers me that flexibility to rent the trumpet with the option to own it later.

In addition to the use of the merchandise without further obligation, APRO members typically offer delivery and setup of the merchandise at no additional cost to our customers. Sometimes this delivery and setup is nearby and easy to complete; however, more often it requires our employees to drive long distances, and then to move furniture, hook up appliances to power and water sources, or to set up and integrate computer or audio-visual systems. We also provide full service on the rented goods during the term of the agreements. If for any reason we are unable to repair the item in the customers' homes, then we provide temporary replacement goods, or "loaners," while we repair the original rented items. This commitment to provide full service and replacement merchandise extends for as long as the rental agreement is in effect and additionally applies whether the rented items are new or used. When our customers choose to terminate their rental agreements, we pick up the merchandise without any charge to the customer.

Who do we serve? In my experience running my stores in El Paso, we serve a wide variety of consumers with an equally wide array of needs and wants. We serve military personnel from Fort Bliss who are required to move from place to place, often on short notice, who need nice but affordable furnishings for a short time. We serve individuals and groups who need entertainment or computer equipment only for a short period or single event – for example, big screen TVs for the Super Bowl. We provide an extra bed to accommodate a visiting relative or friend. We also lease computers and furniture for a re-election campaign office.

The predominant portion of our business involves serving customers who need and want nice things for their home and family but who may not have the cash, credit or present desire to purchase these goods and services outright. Due to past credit challenges and instability, present income and budget constraints, and future uncertainties that many of our customers face every day, we find that they need and want the quality products, financial flexibility, and associated services that our transaction affords them.

The most commonly used option in rental-purchase transactions is the option to terminate the agreements and return the goods without any further obligation. Industry statistics have consistently shown that the "keep rate" – a term used to describe the percentage of transactions originated that end with the customer acquiring ownership of the rented goods – typically falls somewhere in the 25 to 30 percent range. This rate may vary depending upon the type of goods involved, the location of the store, and other external factors.

On this point, I recently have been asked about a higher keep rate found by a Federal Trade Commission survey of rental-purchase customers, which was published last year. That survey reported a significant difference between keep rates recollected by consumers and industry keep rate statistics. I think that much of this disparity may be attributed to the different methodologies used by the FTC and the industry to determine keep rate. The FTC asked telephone respondents to recall whether they acquired any of the items they rented over the previous five years. Those results seem subject to significant memory bias, as customers look around their home and remember those items that they kept, rather than the items that they returned up to five years before. In contrast, most industry estimates derive from tracking individual transactions during the course of a year or more using point-of-rental computer systems. Speaking for APRO and its members, we would be very willing to provide the Committee with the data and related information backing up our keep rate analyses.

I also want to note that the rental-purchase industry is very competitive. In my state alone, there are nearly 1,200 rental stores competing for the same customers. Also, the barriers to entry are low – locations are rented, not purchased, and for a single store an adequate initial investment in inventory and other startup expenses is approximately \$300,000. A significant number of the rental stores operating in the United States are single-store “mom-and-pop” operations.

## **COMMENTS ON H.R. 1701**

APRO members support H.R. 1701, the Consumer Rental-Purchase Agreement Act, because we believe that it balances the interests of our customers and the concerns of the industry. H.R. 1701 incorporates several notable consumer-oriented improvements over federal bills introduced in prior years. It adopts the FTC policy recommendation on how to best disclose the total costs of a rental-purchase transaction. It also strengthens enforcement provisions in response to concerns raised by consumer advocates. I want to highlight some key aspects of H.R. 1701 that my industry supports –

- (1) Rental-Purchase Agreement Disclosures. In its recent report, the FTC determined that the rental-purchase customers would benefit from more comprehensive cost disclosures. H.R. 1701 adopts the suggested FTC approach of disclosing the sum of all rental payments and any mandatory fees and charges, and it requires disclosure of this total cost in rental-purchase agreements, on merchandise labels, and in advertising.
- (2) Merchandise Labeling. H.R. 1701 requires that all rental-purchase merchandise bear a label or tag that discloses specific information about the cost and the product. This point-of-rental disclosure includes the price to purchase the item outright for cash, the rental payment amount, the total number of payments to acquire ownership, and the total cost to acquire ownership. The FTC recommended this requirement. Price tag disclosures are important to help our customers make informed decisions and protect them against price manipulation. Only 18 states currently require any type of merchandise labels at the point of display. H.R. 1701 would establish this consumer protection in 32 additional states, including my state of Texas.
- (3) Broader Reinstatement Rights. H.R. 1701 assures that a customer’s rights will be preserved if the customer wants to reinstate the rental-purchase agreement within a specific period of time. My customers feel that this is one of the most important of all our contract provisions, and so do reputable rental-purchase dealers. H.R. 1701 also provides a three-day reinstatement period

for late payments. For customers that return merchandise, H.R. 1701 provides 30 days for reinstatement, and 90 days if the customer made 60% of the total payments toward ownership. Again, these provisions expand some aspects of current reinstatement rights in most states.

- (4) Civil Liability. APRO members recognize that real enforcement mechanisms are important to ensure the legitimacy of these enhanced consumer rights. H.R. 1701 incorporates civil liability provisions similar to those in the Truth in Lending Act, including actual damages, statutory damages, and reasonable attorney's fees. Bills introduced in prior years did not include attorney's fees, and we support this addition as necessary to enable consumers to enforce their rights.
- (5) Enforcement. H.R. 1701 authorizes both the FTC and the states attorneys general to enforce the act. Because states attorneys general bring actions against rental-purchase dealers who violate existing state consumer protection laws, it makes sense that they have the capacity to help enforce these provisions. We believe this is a very significant improvement to enforcement.

### **WHY APRO SUPPORTS PASSAGE OF H.R. 1701**

In closing, let me tell you why a group of independent businessmen and women want this type of federal regulation. While every individual merchant will have his or her own reasons, I think that APRO members share several core interests.

First, enactment of H.R. 1701 would represent a final unambiguous legal determination that our transaction is not properly characterized a form of consumer credit, but as something entirely different and unique. Every day, we face the possibility of defending lawsuits in which it is claimed that the federal Truth-in-Lending Act or the Consumer Leasing Act applies to our transactions, even though those laws may otherwise appear to not apply to rental-purchase agreements.

In addition, this law would help to clarify the legal issues we face when one of our customers files for bankruptcy and claims our rental merchandise to be part of the bankruptcy estate. This is a very common and costly occurrence for our dealers.

Third, many of our members have operations in more than one state, and this bill would help to reduce the burden of regulatory compliance. Even if I am doing business in a state with a rental-purchase law in place, I benefit from this bill if I have customers in two states, like I do in Texas and New Mexico. I can use one set of agreement forms and one version of advertising disclosures, instead of two or more.

Finally, H.R. 1701 would raise the standard for disclosure and other practices in many states. This enhanced but fair regulation would add to the ongoing efforts of dealers like myself who are trying to upgrade the image of our industry. Additionally, long-term benefits accrue from having a federal "stamp of legitimacy," akin to a "good housekeeping seal of approval," that H.R. 1701 would provide. For some of our dealers, this might include better financing options for startup and expansion plans. For the five publicly traded companies in our industry, the stability and certainty that enactment of H.R. 1701 would provide would be important.

For these reasons, we ask you to support H.R. 1701. Thank you, Mr. Chairman and Members of the Committee. I would be happy to answer any questions you may have.